13.

D.B. CIVIL SPECIAL APPEAL (C) NO.61/2007.
Smt. Laxmi Devi Vs. Deep Chand & Ors.

Date of Order :: 30th May 2007.

HON'BLE MR. JUSTICE P.B. MAJMUDAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Sandeep Sarupariya, for the appellant.

....

BY THE COURT:

After hearing the learned counsel for the appellant, we are satisfied that no case for enhancement is made out and hence, without going into the wider question about competence of this appeal in view of amendment to Section 100-A of the Code of Civil Procedure, in our opinion, the appeal deserves to be dismissed on merits.

For accidental death of 23 years' old son of the appellant, the Tribunal has put an estimate on the income of the victim at Rs.2,000/- per month as a casual labourer for want of any other evidence on record. Taking his annual income at Rs.24,000/- per annum, the Tribunal has estimated loss of dependency for the mother at Rs.8,000/- per annum and with application of multiplier 17, has assessed pecuniary loss at Rs.1,36,000/-. The Tribunal has further allowed Rs.2,234/- towards treatment expenditure, Rs.2,000/- towards

transportation, Rs.2,000/- towards funeral expenses, and Rs.3,000/- towards non-pecuniary loss; and in this manner has made the total award of compensation in the sum of Rs.1,45,234/- and has allowed interest @ 6% per annum from the date of filing of claim application.

In appeal, the learned Single Judge has observed that the ultimate amount awarded by the Tribunal cannot be considered less.

Learned counsel contended that the Tribunal has erred in taking the multiplicand only at Rs.8,000/- per annum after assessing loss of contribution only at one-third of the estimated income of the deceased. The submission is more of theoretical value rather than of any substance.

It is noticed that the claimant, the mother of the victim was about 53 years of age and in the fact situation of the present case, application of multiplier of 17 cannot be countenanced. The deceased was an unmarried person and even if about half of his estimated income is taken towards loss of contribution for the mother, we are clearly of opinion that a multiplier not more than 11 could have been applied in this case. Calculated on that basis, pecuniary loss stands at Rs.1,32,000/- (12,000/- x 11) whereas the Tribunal has allowed the same at Rs.1,36,000/-. The Tribunal has also further allowed reasonable amount towards treatment

expenditure, towards funeral expenses, towards transportation and so also towards non-pecuniary loss.

In the ultimate analysis, the award made by the Tribunal cannot be said to be low or inadequate so as to warrant interference in appeal.

In the aforesaid view of the matter, without going into the wider question of maintainability of this intra-court appeal, we are clearly of opinion that the appeal lacks merits; and the same is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J. **(P.B. MAJMUDAR) ,J.**

Mohan/